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EXAMINER	
SOREY, ROBERT A	

ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/629,869	GAMARNIK ET AL.	
	Examiner	Art Unit	
	ROBERT SOREY	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07/30/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim 18** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 18 recites in the first limitation: "said event". There is insufficient antecedent basis for this limitation in the claim. Describing an event has not yet been brought into the limitations of the claim rendering it unclear as to what event “said event” is pointing.

For the purposes of examination, it is understood that the limitation concerns loading “an event” into a memory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.

5. **Claims 1-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0143469 to Alexander et al. in view of U. S. Patent 6,985,872 to Benbassat et al.

6. As per claim 1, Alexander et al. teaches a method of calculating a risk exposure for a disaster recovery process, said method comprising:

--loading a user interface (see: Alexander et al., paragraphs 38, 65, 74, 75, 78, 93) *into a memory* (see: Alexander et al., paragraphs 81, and 93),

--a specific disaster type (see: Alexander et al., paragraph 1),

Alexander et al. fails to teach:

--said user interface allowing control of an execution of one or more risk models, each said risk model being based on a specific disaster type, each said risk model addressing a recovery utilization of one or more specific assets identified as necessary for a recovery process of said disaster type; and

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 10, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--executing, at least one time, one of said risk models (see: Benbassat et al., column 10, line 59 through column 11, line 3).

7. As per claim 2, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--loading at least one of said risk models into one of a local computer memory and a local memory of a computer at a remote location, said loading allowing said executing of said model (see: Alexander et al., paragraphs 11, 36, 38, 54, 57, 58, 60, 65, 68, 69, 73-76, 78, 81, 93).

8. As per claim 3, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--at least one of said risk models is based on a Poisson distribution function (see: Benbassat et al., column 10, lines 51-55, is met by "[a] stochastic method is used to generate of hypothetical samples" of expected demands on assets, and a stochastic method would include a Poisson process based on a Poisson distribution function).

9. As per claim 4, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--specific disaster type comprises at least one of a: hurricane (see: Alexander et al., paragraph 1); *earthquake; flood; and power outage.*

10. As per claim 5, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--risk models include at least one of: an overall risk exposure that assess a risk that said one or more specific assets will be adequate to recover from said disaster (see: Benbassat et al., column 10, lines 58-63, is met by aggregated results are checked to see if the resources matched demand); *a disaster outlook to assess a consequence of a recent or anticipated disaster at a specific location; and a customer risk assessment to access a risk for an individual customer.*

11. As per claim 6, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 1, and further teaches:

--each said risk model includes at least one parameter selectable in a random manner (see: Benbassat et al., column 10, lines 52-54).

12. As per claim 7, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 2, and further teaches:

--at least one of said GUI and said risk models are stored in a remote computer and said loading comprises a transfer of at least said GUI to a local computer (see: Alexander et al., paragraphs 11, 36, 38, 54, 57, 58, 60, 65, 68, 69, 73-76, 78, 81, 93).

13. As per claim 8, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 6, and further teaches:

--executing said model a number of times, each execution based on a random setting of at least one said parameter selectable in a random manner (see: Benbassat et al., column 10, line 52 through column 11, line 3).

14. As per claim 9, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 8, and further teaches:

--said number of times is established by at least one of: entering a number of runs to be executed (see: Benbassat et al., column 11, lines1-3); *and entering an accuracy of a result, said accuracy causing said model to be executed repeatedly until said accuracy is attained.*

15. As per claim 10, Alexander et al. teaches an apparatus configured to calculate a risk exposure for a disaster recovery process, said apparatus comprising:

--a user interface allowing control of an execution of (see: Alexander et al., paragraphs 38, 65, 74, 75, 78, 93)

--a specific disaster type (see: Alexander et al., paragraph 1),

Alexander et al. fails to teach:

--one or more risk models, each said risk model being based on a specific disaster type, each said risk model addressing a recovery utilization of one or more specific assets identified as necessary for a recovery process of said disaster type; and

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 10, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--an execution command switch for commanding an execution of at least one of said risk models (see: Benbassat et al., column 10, line 59 through column 11, line 3).

16. As per claim 11, Alexander et al. teaches a network configured to calculate a risk exposure for a disaster recovery process, said network comprising at least one of:

--a first computer having: a user interface (see: Alexander et al., paragraphs 38, 65, 74, 75, 78, 93)

--a specific disaster type (see: Alexander et al., paragraph 1),

Alexander et al. fails to teach:

--allowing control of an execution of one or more risk models, each said risk model being based on a specific disaster type, each said risk model addressing a recovery utilization of one or more specific assets identified as necessary for a recovery process of said disaster type; and

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 10, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--an execution command switch for commanding an execution of at least one of said risk models (see: Benbassat et al., column 10, line 59 through column 11, line 3); and

--a second computer having a memory storing at least one of said risk models (see: Alexander et al., paragraphs 11, 36, 38, 54, 57, 58, 60, 65, 68, 69, 73-76, 78, 81, 93).

17. As per claim 12, Alexander et al. teaches a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of calculating a risk exposure for a disaster recovery process, said method comprising:

--loading a user interface (see: Alexander et al., paragraphs 38, 65, 74, 75, 78, 93) *into a memory* (see: Alexander et al., paragraphs 81, and 93),

--a specific disaster type (see: Alexander et al., paragraph 1),

Alexander et al. fails to teach:

--said user interface allowing control of an execution of one or more risk models, each said risk model being based on a specific disaster type, each said risk model addressing a recovery utilization of one or more specific assets identified as necessary for a recovery process of said disaster type; and

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 10, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--executing, at least one time, one of said risk models (see: Benbassat et al., column 10, line 59 through column 11, line 3).

18. As per claim 13, Alexander et al. teaches a method of objectively quantifying consequences of an event, said method comprising:

--a memory (see: Alexander et al., paragraphs 81, and 93)

Alexander et al. fails to teach:

--loading one or more models concerning said event into a memory, at least one of said models predicting a consequence of said event, said predicting based on an historical data of said event;

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 10, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--executing at least one of said risk models a plurality of times, each time using at least one parameter that is selected at random (see: Benbassat et al., column 10, line 52 through column 11, line 3); *and*

--using a result of said executing to quantify a probability of a consequence of said event (see: Benbassat et al., column 10, lines 58-62).

19. As per claim 14, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 13, and further teaches:

--event comprises a disaster (see: Alexander et al., paragraph 1).

20. As per claim 15, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--consequence comprises a utilization of resources (see: Benbassat et al., column 10, lines 58-62) *provided by a disaster recovery service* (see: Alexander et al., paragraphs 1, 5, 35, 37, 81, and 82, is met by “emergency management centers (EMCs)”).

21. As per claim 16, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 15, and further teaches:

--resources comprise at least one of a use of a computer and a use of a computer-related component (Fig. 5)(see: Alexander et al., paragraphs 11, 36, 38, 54, 57, 58, 60, 63, 65, 68, 69, 73-76, 78, 81, 93).

22. As per claim 17, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 13, and further teaches:

--at least one of said models is based on a probability function having parameters approximating an historical data of the occurrence of said event (see: Benbassat et al., column 10, lines 41-55).

23. As per claim 18, Alexander et al. teaches a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of method of objectively quantifying consequences of an event, said method comprising:

--loading into a memory (see: Alexander et al., paragraphs 38, 65, 74, 75, 78, 81, and 93),

Alexander et al. fails to teach:

--one or more models concerning said event

--at least one of said models being based on predicting a consequence of said event, as based on an historical data of said event;

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 1, lines 41-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

--executing at least one of said risk models a plurality of times, each time using at least one parameter that is selected at random (see: Benbassat et al., column 10, line 52 through column 11, line 3); *and*

--using a result of said executing to quantify a probability of a consequence of said event (see: Benbassat et al., column 10, lines 58-62).

24. As per claim 19, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 18, and further teaches:

--at least one of said models is based on a probability function having parameters approximating an historical data of the occurrence of said event (see: Benbassat et al., column 1, lines 41-55).

25. **Claims 20 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2002/0143469 to Alexander et al. in view of U. S. Patent 6,985,872 to Benbassat et al. further in view of Examiner's Official Notice.

26. As per claim 20, Alexander et al. teaches a method of operating a disaster recovery service, said method comprising:

--a disaster recovery process (see: Alexander et al., paragraphs 1, 5, 35, 37, 81, and 82, is met by the actions of “emergency management centers (EMCs)”)

--a specific disaster type (see: Alexander et al., paragraph 1)

Alexander et al. fails to teach:

--acquiring access to a tool that calculates a risk exposure for a disaster recovery process, said tool having one or more risk models, each said risk model being based on a specific disaster type, each said risk model addressing a recovery utilization of one or more specific assets identified as necessary for a recovery process of said disaster type; and

However, Benbassat et al. teaches simulating the distribution of assets over hypothetical demand samples forecasted using statistical demand characteristics obtained from historical data (see: Benbassat et al., column 1, lines 41-55). Furthermore, miscalculation in the distribution of the assets represents a risk (see: Benbassat et al., column 1, lines 34-37), which is why simulating is valuable "in order to predict problems and check possible solutions" (see: Benbassat et al., column 10, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

The references do not specifically teach:

--advertising that said disaster recovery service utilizes said tool as a technique to control an inventory of said assets.

However, the Examiner takes Official Notice that advertising a product was old and well known to a person of ordinary skill in the art at the time the invention was made. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to combine advertising as taught by the Examiner's Official Notice and the teachings of Alexander et al. and Benbassat et al. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

27. As per claim 21, Alexander et al. teaches the invention substantially as claimed, see discussion of claim 20, and further teaches:

--at least one of the following: assessing a risk against a real inventory and a sum of all contracts; allocating a cost of a contract as a result of calculating a probability of a disaster in a location; assessing an asset requirement before a predicted disaster actually strikes a location; locating assets to overcome a predicted asset shortage based on a prediction of occurrence of a disaster (see: Benbassat et al., column 2, lines 4-11); *and offering price point differentials to customers located outside a high-risk disaster area.*

Conclusion

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

30. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Sorey/
Examiner, Art Unit 3626
8 August 2008

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626